MONTANA LEGISLATIVE HISTORY

Chapter 54 1973

Bill H _____ S 67 Original bill & history ___C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Feb 02	✓C	Hearing Date(s)	Jan 11	✓C
	Feb 05	✓C			C
		C			C
		C			C
Date Out	Feb 05	✓C			

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

SENATE JUDICIARY COMMITTEE---January 11, 1973

The meeting was called to order by Vice-Chairman Senator Gilfeather in the absence of Senator McKeon who was excused.

Visitors were Senator Carl, Senator James Shea, Senator Lynch, and Mr. Chad Smith.

The Committee began by discussing SB 47. Senator Carl, author of the bill spoke to the committee explaining its purposes. The committee asked Sen. Carl several questions. Sen. Shea testified why he opposed this bill, explaining that he thought it was too broad. Sen. Carl responded to Sen. Shea's criticisms. Sen. Turnage moved that this bill be appointed to a subcommittee to study further. Sen. Drake seconded the motion; and the committee unanimously voted that it be moved to a subcommittee. Sen. Gilfeather asked that we hear the findings of the bill and discuss it further Tuesday, January 16. He appointed Sen. Turnage, Sen. Boylan, and Sen. Zody to the subcommittee.

Next the committee discussed SB. 67. Sen. Lynch, sponsor of the bill, spoke to the committee. Mr. Chad Smith spoke in opposition to the bill. The floor was opened for questions. Sen. Turnage moved that the bill be amended on page 3, Section 1, Subsection D, Line 17 by inserting the words "adverse to the injured" following the word "anything" and before the word "in". Sen. Hall seconded the motion and the committee voted to amend the bill. Sen. Turnage moved that the bill do pass as amended; Sen. Zody seconded the motion; and the committee voted the bill 67 DO PASS AS AMENDED.

The meeting was adjourned. The next meeting was scheduled for January 12 on adjournment of the Senate.

February 2, 1973

JUDICIARY COMMITTEE

The twentieth meeting of the House Judiciary Committee was called to order in Committee Room 436 of the Capitol Building at Helena, Montana on Friday, February 2, 1973 at 9:00 a.m. Representative John C. Hall, Chairman, presided. All members were present except Representatives Lucas, Roberts and Warfield, absent, excused.

SENATE BILL 67 Senator Lynch, chief sponsor, stated bill was introduced by a number of people. Senior citizens are people insurance companies do not like to insure. Stated page 3, line 17 is the new part of bill and he feels no record should go back more than three years. No other proponents. No opponents. Following several questions from committee members the hearing was closed.

HOUSE BILL 393 Representative Harrison Fagg, chief sponsor, summarized this bill, stating it deals with those persons buying stolen goods at what they know is less than value. Tom Dowling, Lewis & Clark County attorney, a proponent to this bill, stated it creates a rebuttable presumption that person who has stolen property should know it was stolen. This bill is a useful tool for law enforcement and would like bill considered favorably. No further proponents. No opponents. The meeting was then opened up to questions from the committee. Representative Baucus questioned whether this presumption is constitutional. Representative Yardley questioned how it would fit in with regulations on pawn shops. Several other questions from committee members and then hearing was closed.

HOUSE BILL 409 Representative Carl Seifert, District #17, appeared in lieu of Representative Elmer Schye, District #9, and summarized bill stating the local authorities are involved in transfer of liquor licenses. No other proponents. Opponent Dave Jackson, attorney, representing Montana Liquor Control Board, Helena, testified in opposition to bill. No further opponents or proponents. Following very brief questioning from committee the hearing was closed.

that at earlier meeting the chief sponsors of HOuse Bills 356 and 390 requested their bills be deferred until the second regular session. The motion passed in committee and will request secretary to report out bills to BE HELD OVER with committee's permission. Permission granted. Feb 05

Chairman Hall stated he had received a request from Representative Dorothy Bradley that her bill, House Bill 492, which was set for hearing on adjournment on Wednesday, February 7th be postponed until Saturday, February 10, 1973 on adjournment. Chairman Hall stated one reason for not holding bill till Saturday was that there may well be people here on Wednesday as notice was posted for hearing. Following considerable discussion Representative Towe moved to hold a special hearing on Saturday, March 10, 1973 on House Bill 492. Representative Baucus seconded. Representative Lucas feels this just is not right. Chairman Hall stated that if there were witnesses here on Wednesday bill will be heard. The motion carried to hear HB 492 on March 10, 1973 on adjournment.

SENATE BILL 67 Representative Lucas moved DO NOT PASS. Representative Marbut seconded. Representative McKittrick made a substitute motion DO PASS. Representative Greely seconded. Motion DO PASS carried with Representatives Lucas, Yardley, Marbut and Warfield voting no.

HOUSE BILL 395 Representative Greely moved DO PASS. Representative Marbut seconded. Representative Baucus made substitute motion DO NOT PASS. Representative McKittrick seconded. Following discussion among committee the question was called. Motion DO NOT PASS carried with Representative Lucas voting no.

HOUSE BILL 419 Representative McKittrick moved DO PASS. Representative Yardley seconded. Motion carried unanimously.

HOUSE BILLS 438 and 477 Chairman Hall stated the committee will take these two bills as a group for discussion but will move on them separately.

Representative Towe moved House Bill 477 DO PASS AS AMENDED. in previous meeting and House Bill 438 DO NOT PASS. Representative

American Indian arts or crafts articles unless the articles are at all times clearly and legibly designated as imitation. *All imitation articles shall be physically segregated from authentic Indian articles for display purposes.*"

Approved: February 14, 1973.

CHAPTER NO. 53

An Act Repealing Section 3-2920, R.C.M. 1947, Which Provided for the "Montana Wheat Research and Marketing Act" to Be in Effect for Seven (7) Years from August 20, 1967.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 3-2920, R.C.M. 1947, is repealed.

Approved: February 14, 1973.

CHAPTER NO. 54

An Act Providing that No Special Risk Classification may be Established Based on Anything in a Driving Record Which is Three (3) Years Old or Older: Amending Section 40-3640, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 40-3640, R.C.M. 1947, is amended to read as follows:

"40-3640. **Standards applicable to rates.** The following standards shall apply to the making and use of rates pertaining to all classes of insurance to which the provisions of this chapter are applicable:

(a) Rates shall not be excessive or inadequate, as herein defined, nor shall they be unfairly discriminatory.

No rate shall be held to be excessive unless (1) such rate is unreasonably high for the insurance provided, and (2) a reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable.

No rate shall be held to be inadequate unless (1) such rate is unreasonably low for the insurance provided, and (2) the continued use of such rate endangers the solvency of the insurer using the same, or unless (3) such rate is unreasonably low for the insurance provided

and the use of such rate by the insurer using same has, or if continued will have, the effect of destroying competition or creating a monopoly.

(b) Consideration shall be given, to the extent applicable, to past and prospective loss experience within and outside this state, to conflagration and catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to past and prospective expenses, both country-wide and those specially applicable to this state, and to all other factors, including judgment factors, deemed relevant within and outside this state; and in the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during the most recent five-year period for which such experience is available.

Consideration may also be given in the making and use of rates to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

(c) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof.

(d) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both.

Such standards may measure any difference among risks that have a probable effect upon losses or expenses. Classifications or modifications of classifications of risks may be established based upon size, expense, management, individual experience, location or dispersion of hazard, or any other reasonable considerations, *except that no special risk classification may be established based on anything adverse to the insured in a driving record which is three (3) years old or older.* Such classifications and modification shall apply to all risks under the same or substantially the same circumstances or conditions."

Approved: February 25, 1973.

CHAPTER NO. 55

An Act Amending Section 54-132, R.C.M. 1947, by Removing the Presumption to a Deferred Imposition of Sentence for the First